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09/709,692	11/10/2000	Edward B. Gindele	81753WFN	4714

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PATENT LEGAL STAFF
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EXAMINER

KIM, CHONG R

ART UNIT PAPER NUMBER

2623

DATE MAILED: 09/17/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/709,692

Applicant(s)

GINDELE, EDWARD B.

Examiner

Charles Kim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-69 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14-21, 23-35, 37-44, 46-58, 60-67 and 69 is/are rejected.
- 7) ☒ Claim(s) 13, 22, 36, 45, 59 and 68 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: ____

DETAILED ACTION

Claim Numbering

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. The second occurrence of claim 64 and claims 65-68 have been renumbered as claims 65-69 respectively. Any further amendments or references to these claims from hereon should be addressed according to the renumbered claims.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites the limitation "the enhanced image processing parameters associated with the selected rendered digital images" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

Claim 12 is further considered indefinite because the phrase "the enhanced image processing parameters associated with the selected rendered digital images are a function of the number of times of said at least twice selected rendered digital images" in lines 2-4 is

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grammatically incorrect. It appears that the applicant intended the phrase to read “the enhanced image processing parameters associated with the selected rendered digital images are a function of the number of times said at least twice selected rendered digital image is selected”.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3-12, 14-19, 21, 23-35, 37-42, 44, 46-58, 60-65, 67, 69 are rejected under 35 U.S.C. 102(b) as being anticipated by the software program published by EPSON entitled “Film Factory” version 1.0 and the relevant material associated with the program (“EPSON”).

Referring to claim 1, EPSON discloses a method for deriving enhanced image processing parameters for a source digital image, comprising the steps of:

- a. providing a source (original) digital image (figure 1)
- b. generating at least three rendered digital images from the source digital image with at least one image processing parameter associated with each rendered digital image (figure 1. Note that the imaging parameters associated with each of the corresponding rendered digital images are “Green +”, “Green -”, “Blue +”, “Blue -”, “Red +”, and “Red -”)
- c. displaying the rendered digital images on a display (figure 1)

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- d. selecting two or more of the rendered digital images [page 2 and figures 1-3.

Page 2 explains how the rendered digital images can be selected to vary the color of the source image. Figure 1 shows a screen shot image prior to selecting the rendered digital images, figure 2 shows a screen shot image of the first selected rendered digital image (Red -), and figure 3 shows a screen shot image of the second selected rendered digital image (Blue +)]

- d. using the image processing parameters associated with the rendered images to generate enhanced image processing parameters [figure 3. The enhanced image processing parameters are shown on the left portion of the “Manual Retouch” window in figure 3. Note the difference between the imaging processing parameters of the original source image (figure 1), and the resulting enhanced imaging processing parameters (figure 3) after the two rendered digital images are selected].

Referring to claim 3, EPSON further discloses the step of using the enhanced image processing parameters and the source digital image to produce an enhanced digital image (page 4. Selecting the “Retouch” button (figure 3) produces the enhanced digital image in figure 4).

Referring to claim 4, EPSON further discloses that the image processing parameters relate to the brightness of the rendered digital image (page 1 and figure 5).

Referring to claim 5, EPSON further discloses that the image processing parameters relate to the color of the rendered digital images (figures 1-4).

Referring to claim 6, EPSON further discloses that the image processing parameters relate to the tone scale of the rendered digital images (figures 1-4).

Referring to claim 7, see the rejection of at least claim 4 above.

Referring to claim 8, see the rejection of at least claim 5 above.

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Referring to claim 9, see the rejection of at least claim 6 above.

Referring to claim 10, EPSON further discloses the step of using the image processing parameters associated with the rendered digital images to calculate a tone scale function (figure 3. The tone scale function is shown on the left portion of the “Manual Retouch” window in figure 3).

Referring to claim 11, see the rejection of at least claims 2 and 10 above.

Referring to claim 12 as best understood, EPSON further discloses that one of the selected rendered digital images is selected at least twice and the enhanced image processing parameters associated with the selected rendered digital images are a function of the number of times the at least twice selected rendered digital image is selected [figures 3 and 6-7. Figure 3 shows a screen shot image of a selected rendered digital image (Red -) that is selected once. Figure 6 shows a screen shot image of the selected rendered digital image (Red -) that is selected twice. Figure 7 shows a screen shot image of the selected rendered digital image (Red -) that is selected three times, and the enhanced imaging parameters are shown on the left portion of the “Manual Retouch” window. Note that the enhanced imaging parameters are a function of the number of times the rendered digital image is selected (in this case, three times)].

Referring to claim 14, ESPON further discloses the step of selecting a mode button on the display before each selection of a rendered digital image (figures 1 and 5. Note that the “Color” and “Brightness” tabs are interpreted as a mode button).

Referring to claim 15, EPSON discloses a method for generating an enhanced digital image from a source digital image, comprising the steps of:

- a. providing a source (original) digital image (figure 1)

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b. generating at least three rendered digital images from the source digital image with at least one image processing parameter associated with each rendered digital image (figure 1. Note that the imaging parameters associated with each of the corresponding rendered digital images are “Green +”, “Green -“, “Blue +”, “Blue -“, “Red +“, and “Red -“)

c. displaying the rendered digital images on a display (figure 1)

d. selecting two or more of the rendered digital images [page 2 and figures 1-3.

Page 2 explains how the rendered digital images can be selected to vary the color of the source image. Figure 1 shows a screen shot image prior to selecting the rendered digital images, figure 2 shows a screen shot image of the first selected rendered digital image (Red -), and figure 3 shows a screen shot image of the second selected rendered digital image (Blue +)]

d. using the image processing parameters associated with the rendered images to generate an enhanced digital image from the source digital image [page 4 and figures 3-4. Selecting the “Retouch” button (figure 3) produces an enhanced digital image from the source digital image using the image processing parameters associated with the rendered images, see figure 4).

Referring to claims 16, 27, 39, 50, 62, see the rejection of at least claim 4 above.

Referring to claims 17, 28, 40, 51, 63, see the rejection of at least claim 5 above.

Referring to claims 18, 29, 41, 52, 64, see the rejection of at least claim 6 above.

Referring to claims 19, 33, 42, 56, 65, see the rejection of at least claim 10 above.

Referring to claims 21, 35, 44, 58, 67, see the rejection of at least claim 12 above.

Referring to claims 23, 37, 46, 60, 69, see the rejection of at least claim 14 above.

Referring to claims 24, 47, see the rejection of at least claim 1 above.

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Referring to claims 25, 48, see the rejection of at least claim 2 above.

Referring to claims 26, 49, see the rejection of at least claim 3 above.

Referring to claims 30, 53, see the rejection of at least claim 7 above.

Referring to claims 31, 54, see the rejection of at least claim 8 above.

Referring to claims 32, 55, see the rejection of at least claim 9 above.

Referring to claims 34, 57, see the rejection of at least claim 11 above.

Referring to claims 38, 61, see the rejection of at least claim 15 above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 20, 43, 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over the software program published by EPSON entitled "Film Factory" version 1.0 and the relevant material associated with the program ("EPSON").

Referring to claim 2, EPSON does not explicitly disclose the step of storing enhanced image processing parameters with the source digital image as meta-data. However, Official notice is taken that storing image processing parameters as meta-data was exceedingly well known in the art. Therefore, it would have been obvious to store the enhanced image processing parameters with the source digital image as meta-data in the method of EPSON, in order to

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provide the capability of performing the image processing at a later time, thereby increasing the flexibility of the system.

Referring to claim 20, EPSON fails to explicitly teach a spatial filter. However, Official notice is taken that spatial filters were exceedingly well known in the art, and commonly used for enhancing a digital image. Therefore, it would have been obvious to include a spatial filter in the method of ESPON, in order to improve the enhancement of the digital image.

Referring to claims 43, 66, see the rejection of at least claim 20 above.

Allowable Subject Matter

5. Claims 13, 22, 36, 45, 59, 68 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Cosgrove et al. U.S. Patent No. 5,644,647 discloses a method for deriving enhanced image processing parameters for a source digital image by selecting a single rendered digital image.

b. Usami U.S. Patent No. 5,748,342 discloses a method for deriving enhanced image processing parameters for a source digital image by selecting a single rendered digital image.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Kim whose telephone number is 703-306-4038. The examiner can normally be reached on Monday thru Thursday 8:30am to 6:00pm and alternating Fridays 9:30am to 6:00pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amelia Au can be reached on 703-308-6604. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

ck

ck

September 10, 2003


Jon Chang
Primary Examiner